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Trial Section Merits Panel
BOX INTERFERENCE
WASHINGTON DC 20231
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Paper No. 60

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

KOUJI MATSUSHIMA,
TEIZO YOSHIMURA, EDWARD J. LEONARD, JOOST OPPENHEIM,
ETTORE APPELLA, and STEPHEN D. SHOWALTER
(5,652,338 and 08/818,631),

Junior Party,

v.

HEINRICH ASCHAUER,
IVAN J.D. LINDLEY, PAOLA PEVERI, and ALFRED WALZ
(08/466,546),

Senior Party.

Interference No. 104,354

Before SCHAFER, TORCZON, and TIERNEY, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

JUDGMENT

(PURSUANT TO 37 CFR § 1.662)

INTRODUCTION

Aschauer has requested adverse judgment (Paper No. 52). Matsushima requested a stay in entry of judgment pending decision of the outstanding motions, which have since been decided (Paper

No. 58). Matsushima's counsel confirmed in a telephone call with a Trial Section paralegal that it will no longer pursue the inequitable conduct issue.

ORDER

Upon consideration of Aschauer's request for adverse judgment, it is—

ORDERED that judgment on priority as to Count 1 is awarded against senior party Aschauer;

FURTHER ORDERED that Aschauer is not entitled to a patent containing Aschauer 08/466,546 patent application claims 42, 60, 62, 64, and 68-74, which correspond to Count 1;

FURTHER ORDERED that, based on the record before us, junior party Matsushima is entitled to a patent containing Matsushima 5,652,338 patent claim 1, which corresponds to Count 1; and

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative record of Aschauer's 08/466,546 patent application and of Matsushima's 5,652,338 patent.

RICHARD E. SCHAFER
Administrative Patent Judge

RICHARD TORCZON
Administrative Patent Judge

MICHAEL P. TIERNEY
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

INTERFERENCE
TRIAL SECTION

Interference No. 104,354
Matsushima v. Aschauer

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